

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

LENA LITTLEJOHN,

Plaintiff,

v.

DOLGENCORP, LLC, and JOHN DOES
NOS 1-10, whether singular or plural,
masculine or feminine, individuals or
corporations, who are not known at this
time, but will be added by amendment
when ascertained,

Defendants.

Civil Action File No.: _____

*[Removed from Cobb County State
Court; CAFN: 23-A-750]*

NOTICE OF REMOVAL

COMES NOW Dolgencorp, LLC (party defendant in the above-styled case), and within the time prescribed by law, file this Notice of Removal and respectfully show to the Court the following facts:

1.

Plaintiff filed suit against Dolgencorp, LLC (“Dolgencorp”) and Sheila Sims, in the State Court of Cobb County, State of Georgia for personal injuries allegedly incurred as a result of a fall in the Dollar General store located at 10005 Georgia-109, in Zebulon, Georgia. The suit is styled as above and numbered Civil Action

File No. 23-A-750 in that court.

2.

Dolgencorp, LLC is a Kentucky single-member limited liability company with a principal place of business in Goodlettsville, Tennessee. Dolgencorp is not a citizen of the State of Georgia, was not a citizen of the State of Georgia on the date of filing of the aforementioned civil action, and it has not since become a Georgia citizen. The sole member of Dolgencorp is Dollar General Corporation.

3.

Dollar General Corporation is a Tennessee corporation with a principal place of business in Goodlettsville, Tennessee. Dollar General Corporation is not a citizen of the State of Georgia, was not a citizen of the State of Georgia on the date of filing of the aforementioned civil action, and it has not since become a Georgia citizen.

4.

Upon information and belief, Plaintiff Lena Littlejohn is a resident of and domiciled in the State of Georgia who has been a resident of and domiciled in Georgia since the time of the alleged incident and has no plans to move outside of the state of Georgia for the foreseeable future. Upon further information and belief, Plaintiff was not a citizen of or domiciled in the States of Kentucky or Tennessee on the date of filing the aforementioned civil action, has not since become a citizen of

Kentucky or Tennessee, and she intends to remain in Georgia indefinitely.

5.

The presence of John Doe defendants cannot be used to defeat diversity jurisdiction. *See* U.S.C.A. § 1441(b)(1); Smith v. Comcast Corp., 786 F. App'x 935, 939 (11th Cir. 2019). Without a resident defendant in interest who has been properly joined and served, Defendant Dolgencorp may remove this action, as the parties have diversity of citizenship.

6.

In her Original Complaint for Damages, Plaintiff alleges she was seriously injured and incurred medical expenses “in excess of \$84,329.90.” *See* Plaintiff's Original Complaint for Damages, a true and accurate copy of which is attached hereto as **Exhibit “A,”** at ¶ 24.

7.

Plaintiff further alleges she has endured and will continue to endure pain and suffering. *See* **Exhibit “A,”** at ¶ 25.

8.

Ms. Sims, who is a Georgia resident, was dismissed as a party defendant by order of the State Court on July 31, 2023. A true and accurate copy of the Order dismissing Ms. Sims is attached hereto as **Exhibit “B.”**

9.

The total claimed recovery sought by Plaintiff exceeds the sum of \$75,000.00, exclusive of interest and costs.

10.

The aforementioned civil action is a civil action of which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1332 and, accordingly, is one which may be removed to this Court by Defendant/Petitioner pursuant to the provisions of 28 U.S.C. § 1441, in that it is a civil action in which the matter in controversy will exceed the sum of \$75,000.00 exclusive of interests and costs, and is between citizens of different states.

11.

Defendant Sheila Sims was removed on July 31, 2023. This Notice is filed within 30 days thereof pursuant to the requirements of 28 U.S.C. § 1446(b)(3).

12.

Pursuant to the provisions of 28 U.S.C. § 1446 Defendant Dolgencorp has attached hereto copies of all process, pleadings, and orders served upon it in this case, such copies being marked **Exhibit "A"** (Summons and Complaint) and **Exhibit "B"** (Order dismissing Sheila Sims). In addition, Defendant Dolgencorp shows that it has already answered the lawsuit in the state court action referenced

above and a copy of that Answer is attached hereto as **Exhibit "C"** and the Amended Answer is attached hereto as **Exhibit "D."** There are no motions pending in the State Court of Cobb County, Georgia at the time of filing this Notice of Removal.

13.

Venue properly rests in the Atlanta Division of the United States District Court of the Northern District of Georgia, as this case is being removed from the State Court of Cobb County, Georgia, which sits in the Atlanta Division of United States District Court for the Northern District of Georgia. A Notice of Filing Notice of Removal to Federal Court will be filed with the State Court of Cobb County, Georgia.

WHEREFORE, Defendant Dolgencorp prays that the case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 24th day of August, 2023.

Respectfully submitted,

SWIFT, CURRIE, MCGHEE & HIERS, LLP

/s/ Erica L. Morton

Erica L. Morton, Esq.

Georgia Bar No.: 140869

Austin L. Albertson, Esq.

Georgia Bar No.: 768516

Attorneys for Defendant Dolgencorp, LLC

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CERTIFICATE OF COMPLIANCE

Counsel hereby certifies that this document has been prepared with one of the font and point selections approved by the Court pursuant to L.R. 5.1(C) of the Northern District of Georgia, specifically, 14 point, Times New Roman font.

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CERTIFICATE OF SERVICE

I certify that I have electronically filed the *Notice of Removal* with the Clerk of Court using the CM/ECF (Pacer) system which will automatically send email notification of such filing to the following attorney of record:

David Thomas Dorer, Esq.
DOZIER LAW FIRM, LLC
487 Cherry Street
P.O. Box 13
Macon, GA 31202-3312
dorerlawteam@dozierlaw.com

(Signature on following page)

This 24th day of August, 2023.

Respectfully submitted,

SWIFT, CURRIE, MCGHEE & HIERS,
LLP

/s/ Erica L. Morton

Erica L. Morton, Esq.
Georgia Bar No.: 140869
Austin L. Albertson, Esq.
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